

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VINCENZO MAZZAMUTO,
Plaintiff,

v.

UNUM PROVIDENT CORPORATION;
PAUL REVERE LIFE INSURANCE
COMPANY; and NEW YORK LIFE
INSURANCE COMPANY
Defendants

CIVIL ACTION – LAW

NO. 1:CV-01-1157

JUDGE CONNER

JURY TRIAL DEMANDED

PLAINTIFF'S SECOND SUPPLEMENTAL PRETRIAL MEMORANDUM

Plaintiff's policy of disability insurance provides for a 5% cost of living adjustment (COLA) which will affect the computation of damages in this case.

D. A brief description of damages:

July 22, 2000 – August 21, 2001 - \$5,000 per month x 13 months = approximately \$65,000 .

less 90 day elimination period under policy - \$15,000

Net for period - \$50,000

August 21, 2001 through August 20, 2002 - \$6,000 per month per Mr. Mazzamuto's selection of the \$1,000 increase = approximately \$72,000.

August 21, 2002 through August 20, 2003 with COLA - \$6300 per month x 12 months = \$75,600

Total past benefits approximately \$197,600 plus interest at 5% = approximately \$207,480.

Mr. Mazzamuto's age – 45 at date of disability.

Mr. Mazzamuto's current age – 48 (May 25, 1955)

Years to age 65 – 17

Year ending

2004	$\$75,600 \times 1.05\% = \$79,380$
2005	$\$79,380 \times 1.05\% = \$83,349$
2006	$\$83,349 \times 1.05\% = \$87,516.45$
2007	$\$87,516.45 \times 1.05\% = \$91,892.27$
2008	$\$91,892.27 \times 1.05\% = \$96,486.89$
2009	$\$96,486.89 \times 1.05\% = \$101,311.23$
2010	$\$101,311.23 \times 1.05\% = \$106,376.79$
2011	$\$106,376.79 \times 1.05\% = \$111,695.63$
2012	$\$111,695.63 \times 1.05\% = \$117,280.41$
2013	$\$117,280.41 \times 1.05\% = \$123,144.43$
2014	$\$123,144.43 \times 1.05\% = \$129,301.65$
2015	$\$129,301.65 \times 1.05\% = \$135,766.74$
2016	$\$135,766.74 \times 1.05\% = \$142,555.07$
2017	$\$142,555.07 \times 1.05\% = \$149,682.83$
2018	$\$149,682.83 \times 1.05\% = \$157,166.97$
2019	$\$157,166.97 \times 1.05\% = \$165,025.32$
2020	$\$165,025.32 \times 1.05\% = \$173,276.58 \times 9/12 = \$129,957.44$

The total payable through Mr. Mazzamuto's 65th birthday is \$2,008,096.60.

Courts have held that in cases of an improper denial, the insured is entitled to recover the total payout without any reduction to present worth. In addition, Plaintiff claims the return of premiums paid since July 2000, the inception of Mr. Mazzamuto's disability, of \$15,394.70, with interest at the legal rate = \$1,403.05 for a total = \$16,797.75.

Total including return of premium = \$2,024,894.35.

Respectfully submitted,

ANGINO & ROVNER, P.C.

s/Richard C. Angino

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Attorney for Plaintiff

Date: July 16, 2003

CERTIFICATE OF SERVICE

I, Richard C. Angino, Esquire, hereby certify that a true and correct copy of the foregoing Plaintiff's Second Supplemental Pre-Trial Memorandum was personally served upon Thomas Henefer, Esquire, defense counsel, at the pre-trial conference on July 16, 2003.

defense counsel

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s/Richard C. Angino

Richard C. Angino

Dated: July 16, 2003